REMARKS

I. Introduction

Claims 1-16 are pending in this application, of which claim 1 is independent. Of those claims, claims 3 and 13-16 have been withdrawn from consideration pursuant to the provisions of 37 C.F.R. §1.142(b).

In this Amendment, claim 1 has been amended to correct a minor error. Care has been exercised to avoid the introduction of new matter. Accordingly, entry of the present Amendment is solicited pursuant to 37 C.F.R. §1.116.

II. The Rejection of Claims 1 and 7 under 35 U.S.C. §102(e)

Claims 1 and 7 have been rejected under 35 U.S.C. §102(e) as being anticipated by Katta et al. of record. This rejection is respectfully traversed.

Applicants submit that Katta et al. does not disclose an image switching device including all the limitations recited in independent claim 1. Specifically, Katta et al. does not disclose, at a minimum, "image switching control means for sending image switching control data for selecting and controlling a desired device out of the plurality of image outputting devices to the selected image outputting device," recited in claim 1.

In the April 11, 2006 response, Applicants argued that Katta et al. does not disclose sending image switching control data for selecting and controlling a desired device from a plurality of image outputting devices, as recited in independent claim 1. In response, the Examiner asserted that the image switching control data is described in Katta et al. (see, paragraph 1 of the Office Action). It is Applicants' understanding of the Examiner's position

that layout information to be generated by layout information generation means 114 is equivalent to the claimed image switching control data (see, Figs. 13 and 16 of Katta et al.).

The layout information of Katta et al. instructs image capture means 111 how to send a captured image to image receiving apparatus 112 (see paragraphs [0098] to [100]). According to Fig. 16 of Katta et al., the layout information is sent to all the image capture means.

On the other hand, claim 1 recites "sending the image switching control data for selecting and controlling a desired device out of the plurality of image outputting devices to the selected image outputting device" (emphasis added). Accordingly, there is a difference between the claimed invention and Katta et al. in that the claimed invention selects a desired device from a plurality of devices and sends image switching control data to that selected device, while Katta et al. sends the layout information to all the input capture means 111.

Based on the foregoing, Katta et al. does not identically disclose an image switching device including all the limitations recited in independent claim 1. Dependent claim 7 is also patentably distinguishable over Katta et al. at least because the claim includes all the limitations recited in independent claim 1. Applicants, therefore, respectfully solicit withdrawal of the rejection of claims 1 and 7 under 35 U.S.C. §102(e) and favorable consideration thereof.

III. The Rejection of Claims 2, 4-6 and 8-12 under 35 U.S.C. §103

Claims 2, 4-6 and 8-12 remain rejected under 35 U.S.C. §103(a) as being unpatentable over Katta et al. This rejection should have been withdrawn in this Office Action because of 35 U.S.C. §103(c).

Applicants invite the Examiner's attention to the last paragraph on page 6 of the April 11, 2006 response, which is reproduced below:

Furthermore, both the present application and Katta are commonly assigned to Matsushita Electric Industrial Co., Ltd. Accordingly, Katta does not preclude patentability of claims 2, 4 – 6, and 8 – 12 under 35 U.S.C. § 103(c). This is due to the fact that Katta represents § 102(e) prior art, and therefore cannot be utilized in a § 103 rejection.

As discussed in M.P.E.P. § 2146, a reference that qualifies as "prior art" only under 35 U.S.C. § 102(e) cannot be considered when determining whether an invention is obvious under 35 U.S.C. § 103, provided the prior art and the claimed invention were commonly owned at the time of the invention. Applicants note that the present Office Action clearly indicates that Katta et al. is available as prior art only under 35 U.S.C. §102(e), and that the present Application and Katta et al. were, at the time the invention of the present Application was made, commonly owned by Matsushita Electric Industrial Co., Ltd. Therefore, under 35 U.S.C. § 103(c), Katta et al. cannot be considered by the Examiner when determining whether Applicants' invention is obvious under 35 U.S.C. § 103.

Applicants, therefore, submit that the imposed rejection of claims 2, 4-6 and 8-12 under 35 U.S.C. §103 for obviousness predicted upon Katta et al. is not viable and, hence, respectfully solicit withdrawal thereof. Applicants respectfully request the Examiner to withdraw the finality of the Office Action, and issue a non-final Office Action if the Examiner further decides to reject any claims in this application. It is noted that claims 2, 4-6 and 8-12 are now considered allowable because the rejection of those claims should have been withdrawn in this Office Action because of 35 U.S.C. §103(c).

IV. Conclusion

It should, therefore, be apparent that the imposed rejections have been overcome and that all pending claims are in condition for immediate allowance. Favorable consideration is, therefore, respectfully solicited.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

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